

**BOARD OF COMMISSIONERS
FOR THE
THE TOWN OF UPPER MARLBORO**

DRAFT

ORDINANCE: 2016-02

SESSION: Regular Town Meeting

INTRODUCED: June 7, 2016

AN ORDINANCE OF THE TOWN OF UPPER MARLBORO TO BE ENTITLED “VEHICLE & TRAFFIC” THEREBY CONSOLIDATING, REVISING, UPDATING AND CODIFYING EIGHTEEN SEPARATE ORDINANCES OF THE TOWN OF UPPER MARLBORO ENACTED BEGINNING IN 1976 THROUGH 2014 BY PROVIDING NEW SECTIONS REGARDING THE ORDINANCE’S PURPOSE AND AUTHORITY; THE APPLICABILITY OF THE ORDINANCE; DEFINING CERTAIN TERMS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; ENUMERATING CERTAIN PARKING RESTRICTIONS; PROVIDING FOR REGULATIONS PERTAINING TO PARKING METERS; ENUMERATING CERTAIN MOVING VIOLATIONS; DESCRIBING CERTAIN SNOW EMERGENCY PARKING RESTRICTIONS; PROVIDING FOR VEHICLE IMPOUND & TOWING UNDER CERTAIN CONDITIONS; AUTHORIZING CERTAIN FINES, FEES AND PENALTIES; PERMITTING CERTAIN FINE, FEE AND PENALTY CHANGES BY RESOLUTION; AND PROVISION A SAVING PROVISION.

WHEREAS, the Town Charter, Section 82-63 states that the Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the Maryland State Roads Commission or the County Commissioners for Prince George’s County and subject to the laws of the State of Maryland and said Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, pursuant to Transportation Art., § 25-102(a)(1) and § 21-1001 *et seq.* of the Annotated Code of Maryland, the Town of Upper Marlboro (the “Town”) has the authority to regulate or prohibit the stopping, standing or parking of vehicles; and

WHEREAS, the Town Charter, Section 82-16(qq) states that the Board has the power to pass ordinances not contrary to the laws and Constitution of this State, for the specific purpose to install parking meters on the streets and public places of the Town in such places as by ordinance may be determined, and by ordinance prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the State Roads Commission of Maryland must first be approved by the Commission; and

WHEREAS, the provisions of the Maryland Vehicle Law found in § 25-102(a)(4) of the Transp. Art. of Md. Ann. Code expressly permit a local authority, in the reasonable exercise of its police power, to exercise certain powers as to highways under its jurisdiction including designating particular highways or separate roadways as one-way highways and requiring that all vehicles on them move in one specified direction; and

WHEREAS, said § 25-102 of the Maryland Vehicle Law further states that an ordinance or regulation adopted under certain provisions in said section is not effective until a traffic control device giving notice of the local traffic regulations is placed on or at the entrances to the highway or its affected part; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, a municipality may establish and collect reasonable fees and charges associated with the exercise of a governmental or proprietary function exercised by the municipality.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, DOES ORDAIN AND ENACT AS FOLLOWS:

VEHICLE & TRAFFIC ORDINANCE

- SECTION 1: PURPOSE AND AUTHORITY**
- SECTION 2: APPLICABILITY OF THE ORDINANCE**
- SECTION 3: DEFINITIONS**
- SECTION 4: ENFORCEMENT**
- SECTION 5: PARKING RESTRICTIONS**
- SECTION 6: PARKING METERS**
- SECTION 7: MOVING VIOLATIONS**
- SECTION 8: SNOW EMERGENCY PARKING RESTRICTIONS**
- SECTION 9: VEHICLE IMPOUND & TOWING**
- SECTION 10: PENALTIES**
- SECTION 11: FINE, FEE AND PENALTY CHANGES**
- SECTION 12: SEPARABILITY**

SECTION 1. PURPOSE AND AUTHORITY

- A. The purpose of this Ordinance is to establish standards for vehicle use and parking in the Town of Upper Marlboro, and to prevent conditions that threaten the public health, safety or welfare of residents of, or visitors to, the Town of Upper Marlboro. The Ordinance also establishes a system of notifications and penalties for violations to enforce these standards.
- B. The authority to provide for the regulation of vehicles, traffic and parking within the Town of Upper Marlboro for both residents and visitors is provided in Section 82-16(2)–Specific Powers of the Charter of the Town of Upper Marlboro.
- C. The authority to impose fees and penalties for violating the regulations is provided in Section 82-18–Enforcement of the Charter of the Town of Upper Marlboro.

SECTION 2. APPLICABILITY OF THE ORDINANCE

All persons operating, parking, standing or storing vehicles on public streets or public right-of-ways within the corporate boundaries of the Town of Upper Marlboro shall obey and abide by the regulations and requirements herein stated.

SECTION 3. DEFINITIONS

- A. Unless otherwise defined herein, words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in the Maryland Vehicle Law (Titles 11 through 27 of the Transportation Article of the Annotated Code of Maryland), as now in force or as hereafter amended, enacted or reenacted, except where the context clearly indicates a different meaning.
- B. The term “holidays,” as used in this Ordinance, shall mean and include the following: New Year’s Day, Martin Luther King, Jr.’s Birthday, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving Day and Christmas Day.
- C. In this Ordinance, the singular shall include the plural; and the plural shall include the singular; the masculine shall include the feminine and the neuter.

SECTION 4. ENFORCEMENT

Except for moving violations which shall be enforced only by police officers, this Ordinance and the regulations adopted thereby may be enforced by any police officer of the State of Maryland or of any political subdivision thereof having jurisdiction as well as those police and parking enforcement officers, **code enforcement officers** or such other persons as may be designated by the Town.

SECTION 5. PARKING RESTRICTIONS

- A. Parking of Vehicles for more than forty-eight (48) hours: No vehicle shall be parked upon any public street or public right-of-way in the Town longer than forty-eight (48) consecutive hours. Exempted are legally parked, properly licensed and, operable vehicles which are parked on the public right-of-way directly adjacent to the property owner’s or resident’s premises to whom the vehicle is registered.
- B. Commercial Vehicle and Recreational Vehicle: No person shall park any commercial vehicle or recreational vehicle on any public street or public right-of-way in the Town between the hours of 5 p.m. and 7 a.m., Mondays through Fridays, or at any time on weekends or holidays. Exempted are vehicles in the process of making deliveries which do not park for more than a two-hour period. Also, exempted are vehicles for which a written permit for the same shall have been obtained from the Town Police Chief. Such permit shall be issued only for good cause and for a period not to exceed forty-eight (48) hours or unless a written permit for a longer period shall have been granted by action of the Board of Town Commissioners. In cases of unusual circumstances, Board of Town Commissioners may grant a long-term permit for a period not exceeding one year, and such permit may be renewed only by action of the Board of Town Commissioners.

- C. Abandoned Vehicles: No person shall abandon any motor vehicle in any place within the Town of Upper Marlboro and no owner, lessee, or custodian in charge of any lot, field, road, street, lane or other property shall permit any abandoned vehicle to remain on such property within the Town of Upper Marlboro.
- D. Construction Materials: No construction materials of any kind shall be placed or stored on any public street or public right-of-way within Town. Exempted are items required by a contractor, building or public utility company working on a project where permission or necessary permits have been obtained from the Town. Also exempted are public utility companies making emergency repairs. No construction equipment shall be parked or construction materials stored overnight without the Board of Town Commissioners' approval.
- E. Emergency Minor Repairs: No person, firm or corporation shall service any motor vehicle on any public street or public right-of-way of the Town. Exempted are emergency minor repairs such as brakes, electrical or fuel systems and tire repairs. All other repairs shall be considered major repairs.
- F. Parking next to curbs: All standing or parked vehicles must be placed with the right side parallel to and within twelve (12) inches of the curb or edge of improved surface on the right-hand side of the public street or right of way. On public streets where traffic is permitted to move in one direction only, cars may park with either side parallel to the curb in the direction and flow of traffic unless otherwise posted.
- G. Standing or Parking Vehicles: No person shall stand or park a vehicle on any public street or public right-of-way in Town under the following conditions:
1. Driveway entrances– In front of a private driveway which provides access to a public street without the consent of the owner or occupant of the premises.
 2. Fire hydrant– Within fifteen (15) feet of a fire hydrant.
 3. Crosswalk– Within twenty (20) feet of a crosswalk at an intersection.
 4. Traffic control devices– Within thirty (30) feet on the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway.
 5. Signs prohibiting parking– At any place where standing or parking is prohibited by an official sign.
 6. Handicapped zone–In a space or zone marked as restricted for the use of handicapped individuals, unless displaying a handicapped license plate or window sticker.
 7. Sidewalk– On any sidewalk.

8. Roadway Passage– At a location which will reduce the width of the open roadway in either direction to no less than eleven (11) feet along a street or will obstruct a clear passageway along the same for fire apparatus or any other vehicle.
9. Mailboxes– Within five (5) feet of any United States Postal Service mailbox mounted along the roadway.
10. Truck parking– Commercial vehicles over 10,000 pounds shall not be permitted to park upon public streets and ways within the Town limits.
11. Obstruction of Traffic– No motor vehicle, person, business, utility company, or other party may obstruct free vehicular passage of the roadway by standing, stopping, or parking in the traveled portion of the roadway.

SECTION 6. PARKING METERS

A. Parking Regulation

1. It shall be unlawful for any person to cause, allow or permit any vehicle registered in his/her name or any vehicle under his/her control to be or remain parked or stopped in any metered parking space, for any period of time without immediately making the required payment in the parking meter pursuant to the directions on the meter controlling the parking space.
2. It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked overtime or beyond the period of legal parking time established for the parking space in question, or to deposit in any parking meter any payment for the purpose of parking beyond the maximum legal parking time, if any, for the particular parking meter zone or space.
3. It shall be unlawful for any person to park any vehicle across any line or marking of a metered parking space or in such position that the vehicle shall not be parked entirely within the parking space designated by such lines or markings.
4. The loading or unloading of a truck, van or other commercial vehicle may be conducted for a brief, reasonable period on a metered parking space without making the applicable payment.
5. It shall be unlawful for any person to deface, injure, tamper with, open, or willfully break, destroy or impair the usefulness of any parking meter installed under the provisions of this ordinance.
6. It shall be unlawful for any person to counsel, aid or abet any violation of this Ordinance or any failure to comply with this Ordinance.
7. A person who has handicapped plates or permits that have been issued by this state or any other state, may park in a parking space equipped with a parking meter, free of charge, only for twice the maximum time period permitted on the parking meter, not to exceed four hours.

8. All vehicles registered in a state that issues two license plates intended to be affixed to a particular vehicle must have both plates properly displayed at all times on the vehicle.
9. Only one (1) vehicle per parking space. No other vehicle (motorcycle, moped, scooter, or any other motor vehicle) shall be allowed in a parking space.

B. Parking Violation Procedure Authorized

1. Authorized enforcement personnel as outlined in Section 4 of this Ordinance shall issue a report or ticket for each violation. The violation notice shall contain:
 - i. The location and number (as applicable) of the metered parking space where the vehicle occupying it is, or has been, parked in violation of any of the provisions of this Article.
 - ii. The State license number of such vehicle.
 - iii. The date and approximate time of such violation.
 - iv. Any other facts, knowledge of which is necessary to a thorough understanding of the circumstances, attending the violation.
 - v. An oath by the officer or designated employee be attached and certifying, under penalty of perjury, that the matters set forth on said citation are, to the best of his/her knowledge, true.
2. It shall be the duty of the person issuing the ticket or report to submit to the appropriate Town employee, official, or department written notice of each violation of or failure to comply with the parking requirements of this Ordinance.
3. The person issuing the ticket or report shall give the owner or driver a copy of the ticket or report of violation or, in the event that said vehicle is unattended, shall attach said notice in a conspicuous place upon the vehicle.

C. Parking Meter Maintenance:

It shall be the duties of the Town to oversee the installation, maintenance, and collection of Town-owned parking meters.

D. Establishment of Parking Meter Zones

The below areas are authorized by the Board of Town Commissioners to be designated as metered parking areas.

1. All street parking in the 14500, 14600, 14700, 14800 & 14900 blocks of Main Street (Route 725), the entirety of Water Street, and the east side of Elm Street.
2. The Town-owned Church Street Parking lot located at 14525 Church Street.
3. The north side of Old Mill Road, and the south side of Pratt Street.
4. Other areas as set by the Board of Town Commissioners by amending this Ordinance.

SECTION 7. MOVING VIOLATIONS

Consistent with the Maryland Manual on Uniform Traffic Control Devices, the Board shall have authority to install any appropriate traffic control devices on streets and public ways under the jurisdiction of the Town deemed prudent for the following moving violations, and said violations shall be enforced by the issuance of Maryland State citations per Maryland Law

- A. Maximum Speed: No person shall operate any motor vehicle upon any roadway, street, or ally within the Town of Upper Marlboro at a speed greater than reasonable or prudent or at a rate of speed greater than twenty-five (25) miles per hour.
- B. Through Trucks: Provided the Town has designated an adequate alternate route for diverted truck traffic, the Board of Town Commissioners may designate certain streets as “No Through Truck Traffic” for purposes of preventing serious damage from deterioration, rain, snow, or any other condition or avoiding dangerous or heavy truck traffic flow or patterns in and upon Main Street from Route 202 (Largo Road) though Old Crain Highway at the western entrance of the Town and Old Marlboro Pike at the northern entrance to the Town and all residential streets.
- C. Unlawful Turns: No person shall execute a U-turn or back into Main Street, also known as Route 725 and also known as Marlboro Pike, between the intersection at Governor Oden Bowie Drive and 14504 Main Street.
- D. One Way Traffic: Pratt Street shall be one-way traffic only between Main Street and Judges Drive with traffic flowing in an easterly direction. No person shall operate a motor vehicle on a street posted for one-way traffic in the opposite or wrong direction.

SECTION 8. SNOW EMERGENCY PARKING RESTRICTIONS

Should the Board of Town Commissioners or the President declare a Snow Emergency, the following parking restrictions shall go into effect from declaration until 24 hours after last snowfall or revoked:

- A. There shall be no parking on the even numbered side of Spring Branch Drive.
- B. Parking of vehicles on grass shall be permitted for the duration of the snow emergency. Any vehicle in violation of this section may be ticketed as “Parked in a no-parking zone” and shall be impounded or moved if deemed necessary for snow removal operations.

SECTION 9. VEHICLE IMPOUND AND TOWING

A. The Police Department may immobilize using a “boot” or other device, or take into custody and impound:

- 1. Any unattended vehicle parked or left standing on any highway or street in the Town or on any property owned or leased by the Town in violation of any traffic or parking regulation.
- 2. Any unattended vehicle not registered within the State of Maryland for which three (3) or more outstanding parking or parking meter violation citations issued within a consecutive eighteen (18) month period.
- 3. Any vehicle parked or disabled in a “no parking at any time, tow-away zone” zone; blocking a private driveway without the permission of the property owners; parked in an area designated as a fire lane; within ten (10) feet of a fire hydrant, or; parked on any sidewalk.
- 4. Any vehicle displaying improper, illegal or expired license plates or no plates at all parked or left standing, stored or operated on any public street or any property owned or leased by the Town, or upon private property except when the vehicle is parked within a fully enclosed garage, unless said vehicle shall have affixed or attached thereto license plates or markers

displayed conspicuously on the front and rear of said vehicle in accordance with the provisions of the Annotated Code of Maryland or, in the case of a nonresident, the State, County or territory where such vehicle is registered.

5. The provisions of Title 25, Subtitle 2, of the Maryland Vehicle Law (§ 25-201 et seq. of the Transportation Article of the Annotated Code of Maryland) shall apply with respect to the removal, storage, reclamation and disposal of any vehicle taken into custody pursuant to Subsection A above.
- C. In addition to any information required to be contained in the notices given under Title 25, Subtitle 2, of the Maryland Vehicle Law, information as to the nature and circumstances of the traffic or parking violation or violations on account of which a vehicle is impounded shall be given to the owner or other person normally in charge of such vehicle.
- D. In addition to paying all towing, preservation and storage charges or fees resulting from taking or placing the vehicle in custody, the owner or person normally in charge of such vehicle shall also be liable for any fine, fee or forfeiture resulting from the violation or violations for which the vehicle was impounded and/or immobilized, and such vehicle shall not be released until either written receipt is displayed showing payment of such fine, fee forfeiture and/or collateral, with said fine, fee, forfeiture and/or collateral amount to be set by ordinance or resolution of the Board of Town Commissioners, and such violation is posted for appearance of the owner or person normally in charge of such vehicle in the District Court of Prince George's County to answer the violation or violations on account of which the vehicle was impounded.
- E. Any vehicle found in violation of this section is subject to impoundment.

SECTION 10: PENALTIES AND FEES

- A. Misdemeanor: Except for moving violations as enumerated in Section 7, violation of any provision of this Ordinance shall be deemed a misdemeanor and any person convicted of such violation shall be fined not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00) dollars.
- B. State Citations: All moving violations, including those by any person violating Section 7 (Moving Violations) of this Ordinance, shall be cited using the Maryland Uniform Complaint and Citation Form, and upon conviction, shall be fined and/or penalized in accordance with the schedule of fines and penalties determined by the State and set out in a document prepared by the Chief Administrative Judge of the District Court of Maryland and referred to as the "Schedule of Preset Fines and/or Penalty Deposits," as such document (Form #DC-CR-090) may be amended from time to time.
- C. Town Citations: Any Town citations and fine amounts are listed in Section 11 of this Ordinance. Furthermore, when a citation which is unpaid longer than thirty (30) days following issuance shall double in amount. Should the citation remain unpaid after forty-five (45) days of the initial citation date, it shall become subject to the State of Maryland Flagging Program.
- D. Administrative Flagging Fee : Any owner of a vehicle who shall receive a warning letter or notice from the Town pursuant to the provisions of the Maryland Motor Vehicle Administration's parking violation and flagging procedures or shall seek to obtain a parking fine receipt from the Town in order to remove the registration flag and register said vehicle shall be subject to a

municipal flagging fee of twenty dollars (\$20.00) in addition to those penalties or fees incurred as a result of other violations of this Ordinance.

- E. Boot Fee: In addition to any other authorized charges, a boot or immobilization fee of \$25.00 shall be charged a vehicle owner who violates this Ordinance or is otherwise responsible which results in immobilization as described in this Ordinance to defray the Town's cost of installing, removing and maintaining the boot device.
- F. Payment to Town: A person who elects to pay the charges of a Town citation shall do so directly to the Town Clerk, The Town of Upper Marlboro, 14211 School Lane, Upper Marlboro, MD 20772.
- G. Election to stand trial: A person who receives a Town or State citation issued by the Town has the option to stand trial for the violation. An election to stand trial for a Town citation shall be made by sending a notice of intent to the Upper Marlboro Police Department within twenty (20) days of the date the citation was issued. If a person desires the presence at trial of the Police Officer who issued the citation, he shall so indicate when notifying the Police of Intention to stand trial. If proper notification is not given, the Police Officer need not appear at trial, and a copy of the citation bearing the certification of the officer is prima facie evidence of the facts stated therein.
- H. In addition to the fines and penalties herein described, the Board may avail themselves of any and all civil and equitable remedies for the purposes of stopping continuing offenses of this Ordinance.

SECTION 11: FINE, FEE AND PENALTY CHANGES

Violation of any provision of this Ordinance shall be subject to a fee, fine and/or penalty, which may be amended or established from time to time by written resolution of the Board of Town Commissioners. Any fine, fee or penalty established by this Ordinance may be individually or collectively modified in the form of a fine, fee and penalty schedule.

SECTION 12: SEPARABILITY

If any section or provisions or parts thereof in this Ordinance shall be adjusted invalid or deemed unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of this Ordinance as a whole or any other section or provision or part thereof.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said Board may set the fines, penalties, and fees associated with violating this Ordinance from time to time by resolution.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said Board may set rates and time frames for parking metered zones established by this Ordinance by resolution.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said may establish and regulate no parking zones, restricted parking zones, and permit parking zones by resolution. However, the President of the Board has the authority to temporarily enact such restrictions for special circumstances for a period no longer than thirty (30) days.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed repealed and superseded by the provisions of this Ordinance, and should a previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Board of Commissioners.

BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance shall be posted in the Town Hall office, and it or a fair summary thereof, shall be published once in a newspaper of general circulation in the Town.

Adopted this _____ day of _____, 2016.

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

Nancy C. Clagett, Commissioner

Linda Pennoyer, Commissioner

Attest:

Clerk

James Storey, President